

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-CR-00033-KDB-DCK

USA

v.

DEVON TERMAINE ROSE

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the First Step Act of 2018. (Doc. No. 30).

The defendant pled guilty to possessing crack cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) (Count Two), possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count Three), and possessing a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1) (Count Four). (Doc. No. 13: Plea Agreement at 1). A violation of § 841(b)(1)(C) is not a “covered offense” under the First Step Act. Pub. L. 115-135, § 404(a); Fair Sentencing Act of 2010, Pub. L. 111-220, § 2 (2010). Additionally, Section 404(c) of the First Step Act specifies that a court “shall not entertain” a reduction motion where the sentence was imposed in accordance with the Fair Sentencing Act of 2010. Here, the defendant was sentenced on December 7, 2018, (Doc. No. 27: Judgment at 1), well after the effective date of the Fair Sentencing Act. Therefore, he is not eligible for a sentence reduction under the First Step Act.

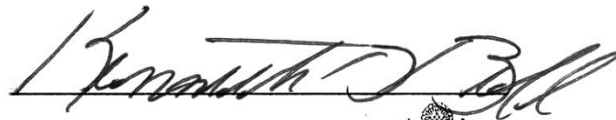
The defendant also requests a reduction of supervised release and the appointment of counsel under the First Step Act. The First Step Act does not apply

to periods of supervised release, nor does it entitle one to the appointment of counsel.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 33), is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: November 4, 2019

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

